IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3410 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI
and
Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NANUBHAI NARSINHBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3410 of 2002
MR NL PATEL for Petitioner No. 1
MS MANISHA LAVKUMAR Ld. AGP for Respondents No. 1-2

CORAM : MR.JUSTICE N.G.NANDI
and
MR.JUSTICE J.R.VORA

Date of decision: 20/03/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE N.G.NANDI)

1. Heard Mr. N.L.Patel learned counsel for the petitioner.

2. Rule. Ms. Manisha Lavkumar learned AGP waives service and accepts rule on behalf of respondents nos. 1 and 2 as directed.

3. It is jointly submitted by the learned counsel appearing for the parties that since the only question raised in this writ petition is about the decision to be taken on the application under Section 28-A of the Land Acquisition Act, this petition be taken up to day and decided. Hence, this petition is heard and decided by this order.

4. It is submitted by Mr. N.L.Patel learned counsel for the petitioner that by common Notification under Section 4 of the Land Acquisition Act, land situated in the vicinity of village Bhatpor of Choryasi Taluka, District - Surat were acquired; that by the said Notification, petitioner's land also came to be acquired by the respondents; that the compensation determined by the Special Land Acquisition Officer was accepted by the petitioner without any objection. The other persons whose lands were also acquired by the same Notification, have accepted the compensation under objection and preferred Reference under Section 18 of the Act, before the Reference Court, wherein the compensation came to be enhanced.

5. That the petitioner thereafter applied to the respondents under Section 28-A of the Act for getting the same compensation as enhanced in other matters in Reference under Section 18 of the Act but petitioner's application is not decided by the respondent. It is further submitted that the Division Bench of this Court in identical matter has taken the view directing the respondents to decide the application under Section 28-A of the Act within a reasonable time.

6. The petitioner has also referred to the judgement rendered by the Hon'ble the Supreme Court of India in the Civil Appeal No. 563 of 1994 in the case of Baburao and others Vs. State of U.P., and following this judgement, the respondent - State has issued circular to the effect that claimant receiving compensation without objection, would be entitled to the compensation as enhanced by the Reference Court in the case of other claimants under

Section 28-A of the Act.

7. In view of the above, it is directed that the application dated 12.7.1999, copy whereof is at Annexure-D, shall be decided by the respondents Officer on Special Duty, Land Acquisition Office, Vikas Building, Nanpura, Surat, in accordance with law within three months from the date of receipt of the writ of this order or the submission of certified copy of this order whichever is earlier.

8. It is submitted by Mr. Patel learned counsel for the petitioner that he will file copy of this Special Civil Application along with the certified copy of this order before the Special Land Acquisition Officer. The petitioner is permitted to do so.

9. This Special Civil Application is disposed of. Rule is made absolute accordingly. No order as to costs.

(N.G.Nandi,J.)

(J.R.Vora,J.)
(vipul)